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Docket # 98-17

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Petition for Section 11 Biennial Review

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PETITION FOR SECTION 11 BIENNIAL REVIEW

SBC COMMUNICATIONS, INC
SOUTHWESTERN BELL TELEPHONE COMPANY
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SUMMARY OF PROPOSALS

Issue	Current Regulatory Requirement	Comparative Benchmark	1998 Biennial Review Initiatives
Study area averaged access rates (69.3(e)(7))	Access tariff rates must be averaged across a study area and cannot be deaveraged	Complete pricing flexibility and freedom to compete with no average pricing requirements	Eliminate rule 69.3(3)(7)
Price cap productivity offset and consumer productivity dividend (61.45)	6% annual offset on interstate rates and 0.5% annual offset of interstate rates	Market forces constrain prices	Implement "pure price caps" or, at a minimum, eliminate productivity offset for universal service related rates, special access services and other competitive services. Eliminate the consumer productivity dividend
Price cap basket and service structure (61.42)	Prices constrained via rigid and granular structure	Market forces constrain prices	At a minimum, eliminate in the most competitive market areas; Streamlining of the existing structure including the elimination of many indices and sub-indices
Access Charges (Part 69)	Dictates how incumbent LECs will offer, compute and assess access charges	Market place defines how services should be structured and revenues are collected	Eliminate Part 69 for price cap LECs – Part 61 provides price management rules
ILEC combining of the network elements for the CLEC (51.315)	Under current rule, ILECs are required to combine network elements for requesting CLECs.	The Act requires ILECs to provide unbundled network elements, but it does not require that they combine them	Revise the rule to acknowledge finding of the Eighth Circuit that ILECs are not required to combine network elements for requesting carriers.

Issue	Current Regulatory Requirement	Comparative Benchmark	1998 Biennial Review Initiatives
Nonstructural safeguards / CEI plans	BOCs must file CEI plans and obtain Bureau approval for those plans prior to providing new information services.	Applies only to BOCs	Streamline current ONA rules and eliminate where a BOC elects to provide both intraLATA and interLATA information services pursuant to the separate affiliate and other requirements of Section 272; eliminate the CEI Plan filing and review process.
ARMIS reports (Part 43)	Compliance with Part 43 requires 11 annual reports with a burden estimate in excess of 25,000 hours	None required	Consolidate and/or eliminate unnecessary or redundant filing requirements
Central Office Plant Records (Part 32)	LECs are required by Section 32.2000 to maintain a great amount of detail on each property record for an incredible array of plant items. This includes detail on all manner of small dollar plant investment items	Maintain property at a higher level with less detail consistent with GAAP principles. Small dollar investment items are not tracked due to the fact that they are expensed	Modify rules to maintain our property records in a manner consistent with GAAP including e.g., the freedom to establish expense limits and retirement units without restrictions.
USOA accounting rules (Part 32)	Exhaustive set of rules that dictate each Uniform System of Accounts and the method needed to populate that account	Use traditional Generally Accepted Accounting Principles (GAAP) which lay out broad principles that need to be adhered to by industry at large	Long term goal should be to eliminate Part 32 and employ GAAP accounting. Interim goal should be to employ Class B accounting and streamline all record keeping requirements.

Issue	Current Regulatory Requirement	Comparative Benchmark	1998 Biennial Review Initiatives
Depreciation Rates	Depreciation rate ranges prescribed for Price Cap LECs. Filings are still required to justify the actual rates employed within these ranges	Consistent with GAAP requirements.	Eliminate prescribed depreciation rate for price cap LECs. Replace with internally determined rates consistent with GAAP.
Commission Audits	The Commission Staff complete numerous financial and operational audits annually in carrying out the various Commission mandates.	Competitors have no audits performed on them	The audits should be limited to only those expressly required by the Act and simplify those audits that are required to continue
Supporting tariff information for price cap carriers (61.49 and 61.38) for both existing and new services	Extensive data and support requirements to be included with tariffs	Minimal tariffing requirements, if any, are required	Eliminate all support requirements. Do not impose additional requirements or tests.
Enhanced Service Provider (ESP)	By FCC order ESPs have been exempted from the payment of access charges	No similar circumstances	The original exemption was premised on the nascency of the industry. This premise is no longer valid and therefore, the exemption should be eliminated or modified
Separations (Part 36)	The jurisdictional separations process requires vast amount of usage and account based data to produce extremely detailed calculations	No similar circumstance	"Freeze" the categorization levels and allocation factors at year end-1997 levels.

Issue	Current Regulatory Requirement	Comparative Benchmark	1998 Biennial Review Initiatives
Allocation of costs to nonregulated jurisdiction	These rules define and require extremely detailed procedures which allocate costs to the nonregulated jurisdiction	No similar circumstance	Streamline the process; For example, 1) eliminate the 495A&B reports which forecast the amount of network nonregulated costs 2) require an annual CAM filing only, consistent with the '96 Telecom Act, and 3) broaden the materiality scope of the annual audit consistent with GAAP audits.
International Section 214 applications for providing service over newly-acquired international lines on routes to countries where a carrier has no affiliate	Required to file a 214 application which causes unnecessary delays and regulatory costs	Same for all carriers	Streamline via blanket grant authorization
International Tariffs	Increasingly competitive market for telecommunications services reduces the likelihood of unreasonable discriminatory or anticompetiive tariffs	International tariffs can be filed on one-day's notice for nonaffiliated carriers	Mirror domestic mandatory detariffing or allow permissive detariffing
Acquiring controlling interests in foreign carriers (Part 63)	Commission requires U.S. carriers to give notice with possible FCC review prior to acquiring controlling interest in foreign carriers which severely disadvantages competing U.S. investors.	Applies only to U.S. carriers	Eliminate

Issue	Current Regulatory Requirement	Comparative Benchmark	1998 Biennial Review Initiatives
Product Marketing	Marketing and sales activities permitted by rules do not include product development and design	No similar circumstances	Eliminate
Provision of telegraph and telephone franks (41)	Extensive data required to be maintained on each frank	No similar circumstances	Eliminate
Long term service provider number portability for all CMRS providers (52.31)	By June 30,1999, all cellular, broadband PCS and covered SMR providers must provide a long-term database method for number portability in 100 largest MSA's.	CMRS number portability not currently required and yet competition in CMRS markets is increasing dramatically, prices are dropping and the new entrants – PCS providers are enjoying significant demand	Eliminate rule 52.31; or forbear
Lowest Corresponding Price (LCP) for Schools and Libraries Program (54.500, 54.504, 54.505, 54.511)	LCP establishes an unneeded price standard when submitting bids for covered products and services	No similar circumstances	Eliminate requirement
Paging carriers qualified to receive termination compensation	Requires carriers to pay terminating compensation to paging companies even though they already receive compensation for the same cost element from their existing customers	No similar circumstances	Eliminate reciprocal compensation application to paging
Processes and procedures for wireless radio services	Currently, requirements are spread throughout numerous FCC parts that address wireless regulations	No similar circumstance	Consolidate rules, streamline rules, or eliminate rules as appropriate to remove duplication

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In the Matter of Petition for Section 11 Biennial Review	

PETITION FOR SECTION 11 BIENNIAL REVIEW

SBC Communications Inc., for itself and on behalf of Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell (hereinafter SBC or the SBC Companies) files this Petition for Section 11 Biennial Review as mandated by 47 U.S.C. §161. These companies respectfully seek the FCC to comply with the requirements of this section.

I. INTRODUCTION AND SUMMARY

Section 47 U.S.C. § 161, also known as Section 11 of the Telecommunications Act of 1996, was enacted into law on February 6, 1996. That section states:

> **Sec. 11 Regulatory Reform**
>
> (a) Biennial Review of Regulations. - In every even-numbered year (beginning with 1998) the Commission--
> (1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and
> (2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

(b) Effect of Determination. - The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.

In passing the Telecommunications Act of 1996 (the Act), Congress sought to establish a procompetitive, deregulatory, national policy framework for the United States telecommunications industry. Part of that framework included a top-to-bottom review of existing regulation, codified in Section 11.

It is now 1998, the kickoff year for the biennial review. Yet, the FCC has not performed its statutory duty. Instead, on February 5, 1998, the Commission issued a public notice releasing a list of "31 proposed proceedings to be initiated as part of the 1998 biennial regulatory review."[1] That list included 3 items from the Cable Services Bureau, 12 items from the Common Carrier Bureau, 4 items from International, 3 from Mass Media, 3 from the Office of Engineering and Technology, and 6 from the Wireless Bureau.[2]

The SBC Companies believe that this effort, evidenced by the News Release, is inadequate. By this Petition, we request the Commission to undertake the complete review of regulations ordered by Congress in Section 11. Included as part of this Petition, is a list

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[1] News Release, Report No. GN 98-1, February 5, 1998.

[2] The FCC also indicated it was willing to entertain suggested additions, and established a website for that purpose.

of regulations which are no longer necessary in the public interest. The Commission should commit to an exhaustive review, and as a preliminary matter, should consider the items presented in this Petition.

II. BACKGROUND OF SECTION 11

This section was enacted in 1996. The legislative history clearly shows that it was intended to require the FCC to perform an exhaustive review of all rules and regulations on a regular basis. The Senate debate states that this section

> establishes a process that will require continuing justification for rules and regulations each 2 years. Every 2 years, in other words, all the rules and regulations will be on the table. If they don't make sense, there is a process established to terminate them.[3]

This section is characterized as establishing "a process for continuing attic-to-basement review of all regulations on a 2 year cycle."[4] Thus, Congress clearly intended for a process to be set up through this section to conduct a meaningful review of all existing rules and regulations and to determine the necessity of continuing them. While short on words, Section 11 was intended to be long in effect. Every two years, the FCC is required to review its books of rules and regulations and rid the industry of those which are no longer necessary in the public interest.

[3] 141 Cong. Rec. S7881, June 7, 1995.

[4] Id.

III. SECTION 11 REQUIRES A PUBLIC REVIEW OF TELECOMMUNCATIONS CARRIER REGULATION

The FCC has not attempted to undertake the exhaustive review mandated by Section 11. As Commissioner Furchtgott-Roth stated recently, "To my knowledge, the FCC has no plans to review affirmatively ***all*** regulations that apply to the operations or activities of any provider of telecommunications service and to make specific findings as to their continued necessity in light of current market conditions. Indeed the comprehensive and systematic review of all FCC regulations required under Section 11 certainly would take many months to complete, yet we have not published a specific schedule to ensure completion of the task in 1998."[5]

Section 11 contemplates establishment of a procedure to ensure that all regulations are examined every two years. The Commission has not undertaken any such procedure. In addition, Section 11 requires all regulations to be examined within the context of a particular policy framework—to see if the regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of service. The Commission has not issued any guidelines or begun any proceedings which might examine how this standard is to be interpreted.

Instead, the Commission has issued a two page News Release stating that it would be undertaking the 1998 Biennial Review through examining some regulations in the context of

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[5] Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, and 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, CC Docket Nos. 95-20 and 98-10 ("CI-III Further Remand Proceedings"), Further Notice of Proposed Rulemaking, FCC 98-8, released January 30, 1998, Separate Statement of Commissioner Harold W. Furchtgott-Roth.

the standard set forth in Section 11. While the Public Notice states that "The list was compiled following a broad, comprehensive internal review of all existing FCC regulations and informal input from the industry and the public...,"[6] no public notice or explanation was given as to how that "broad, comprehensive internal review" was accomplished, what criteria the Commission used, what regulations were examined, or why certain regulations were not chosen for review, etc.[7] Nor has the FCC justified why a review of thousands of pages of regulations yielded only a handful of areas it believes satisfies Section 11 requirements.

The FCC must perform the review Congress intended. Such review must include a public rulemaking proceeding, with notice and comment, reviewing all rules and regulations in effect that apply to the operations or activities of any provider of telecommunications service.

IV. STANDARD FOR BIENNIAL REVIEW

In determining whether to both (a) impose a new rule in the context of a Commission rulemaking and (b) continue to impose an existing rule, the Commission should undertake an analysis of the cost of the rule and its expected benefit. A hard and fast rule is not appropriate; different circumstances will need differing analyses. In some cases, economic costs or benefits will not be easily quantified, and in those situations, qualitative analysis should be used. In other cases, some form of quantitative factoring can be accomplished.

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[6] News Release (see n.1.)

[7] See for example 5 U.S.C.§553; National Family Planning and Reproductive Health Assn. v. Sullivan, 979 F.2d 227 (D.C. Cir. 1992) (agency may not repudiate implementation of a rule without proceeding through a notice and comment rulemaking normally required for amendments of a rule).

"The social costs of regulatory constraints that artificially increase costs and fail to provide meaningful consumer benefits and/or protections can be staggering. This is especially the case in a rapidly changing and dynamic telecommunications environment. An egregious example of the harms that can result from delay and not permitting market forces to work is the licensing of cellular telecommunications. The 10 to 15 year regulatory delay in licensing systems is estimated to have cost society more than $86 billion or about 2 percent of GNP in 1983 when cellular service began."[8]

Another standard which should be met is that of regulatory equity: companies providing competing services should be subjected to the same regulatory structure. And, in evaluating rules, the Commission should review the reason for regulation.

Commissioner Powell recently suggested that the Commission should shift its resources from prospective regulation to enforcement, calling the former "resource-intensive and time consuming." And he suggests that "Rather than imagining all the dangers that might result if we let a company do what it has asked and then take equally speculative action to meet those speculative dangers, let's instead police conduct and make decisions based on real facts. If there are 'teeth' in our enforcement efforts, companies will take heed or pay the price.[9]

V. MANY CURRENT REGULATIONS ARE NO LONGER NECESSARY IN THE PUBLIC INTEREST

The SBC Companies have compiled a list of a number of regulations which meet the Section 11 standard of not being necessary in the public interest. SBC has spent more than $1 billion opening its local markets to competition since passage of the 1996 Act; over $300

[8] Richard Schmalensee and William Taylor, "Need for Carrier Access Pricing Flexibility in Light of Recent Marketplace Development," 1998, quoting J.H. Rohlfs, C.L. Jackson and T.E. Kelley, "Estimate of the Loss to the United States Caused by the FCC's Delay in Licensing Cellular Telecommunications" NERA Report, November 4, 1991.

[9] Michael K. Powell, "Technology and Regulation," Speech before the Legg Mason Investor Workshop, March 13, 1998.

million on local number portability, approximately $600 million on expense and capital costs incurred to make extensive changes and modifications to SBC's trunking networks in order to accommodate present and anticipated future CLEC traffic flows (e.g., tandem trunking, facility interconnection, customized routing, Access SS7, originating line screening, unbundled network elements (UNE), etc.) SBC has also devoted significant resources to develop and implement various forms of access to operations support systems (OSS) to provide CLECs with access to SBC's pre-ordering, ordering, provisioning, repair and maintenance and billing systems.

SBC has entered into 280 interconnection and resale agreements with CLECs within SBC's seven state service area. The various state commissions have approved more than 214 SBC-CLEC interconnection and resale agreements. In addition, SBC is currently in the process of negotiating more than 400 additional interconnection and resale agreements. At the end of February 1998, more than 165 CLECs were operational in SBC's territory and passing resale, interconnection or UNE orders to SBC. Through the end of February 1998, more than 830,000 access lines have been lost to CLECs through resale or through the establishment of new facilities-based service by CLECs in SBC's seven state area.

Competition is escalating. Of the resale lines lost to competitors, more than 220,000 were lost in the last 4 months of 1997 alone. In the first 6 months of 1997, Southwestern Bell lost an average of 9,100 resold lines per month. This number increased three-fold to an average of over 35,000 lost resold lines for the last five months of 1997. Moreover, SBC's operational support systems processed over 1.2 million service orders from CLECs in 1997. Last year, more than 5.3 billion minutes of traffic were exchanged between SWBT/Pacific/Nevada with CLECs.

The Telecommunications Act of 1996 set up a system so that local markets could be opened to competition. Companies are actively involved in that pursuit. Meaningful economic competition is underway—the stage is set, the agreements are in place, minutes are being exchanged. Regulations which are holdovers from a monopoly local exchange market must be relaxed or eliminated in light of these developments. As we will demonstrate below, many regulations exist which are unnecessary. Some are holdovers from rate of return regulation, some are unnecessary because effective competition eliminates the need for regulation, and some must be revisited because their effect on certain carriers is disproportional.

A. Many Regulations Are Holdovers From Rate of Return Regulation and Should be Eliminated

With price caps, and particularly now that the Commission has eliminated the sharing mechanism, costs of the business no longer need to come under regulatory control. The main purpose of price caps was to sever the regulatory relationship between rate of return and costs of service so that carriers would have the appropriate incentives to incur costs as efficient providers of service.[10] Thus, there is no longer any need to have different rules for incumbent LECs for depreciation, rate of return prescription, Part 32 accounting rules, or detailed recordkeeping than those with which other telecommunications carriers must comply (e.g., GAAP accounting, etc.)

For many of these rules, other laws and regulations exist, apart from the FCC, which adequately protect the marketplace from arguable anticompetitive or monopolistic

[10] Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Fourth Report and Order, FCC 97-159, released May 21,1997, paragraph 3.

conduct. The SEC, in particular, promulgates many regulations with which companies must comply in order to trade securities. The IRS also has rules relating to taxation that influence how a company operates, and which drive decisions as to the records it must keep. Antitrust and other unfair competition laws also constrain a company's behavior and influence record retention and pricing decisions. The important factor in all of these rules is that ALL companies in the market are subject to them. The FCC should only regulate those areas needed to protect the telecommunications market in particular. In some areas, such as accounting, the FCC's role should be limited to protecting ratepayers, not the market in general or specific competitors. For most areas, it should permit regulated companies to operate under the same set of rules as their competitors.

1. Depreciation And Amortization Schedules

Price cap carriers are currently required to perform and submit depreciation studies.[11] Instead, these carriers should set their own depreciation lives and rates dependent upon their own facts and circumstances, consistent with the needs of Generally Accepted Accounting Principles (GAAP) and the financial audits performed by independent auditors.

Section 403 of the Act invites the FCC to decline to continue to prescribe depreciation rates and lives. Depreciation rates should be based on economic analysis consistent with the procedures called for by GAAP, as is done by industry at large.[12] No need for micromanagement exists.

[11] 47 CFR §32.2000(g).

[12] This entails forecasting or estimating remaining lives utilizing all available data in lieu of projections primarily based on extremely detailed historical retirement information.

SBC estimates that $500,000 in annual costs could be saved if the company were able to employ GAAP principles in determining depreciation rates as is done by outside firms. The costs of this regulation are in the internal staff and engineering groups who must detail and justify in the regulatory arena, the choices made for each type of plant. Such an exercise is not needed since depreciation expense has little bearing on the rate setting process.

2. Rate of Return Prescription

There is currently regulation still in existence which triggers an inquiry into whether a rate of return prescription is needed once certain criteria are triggered in the financial market.[13] This is a vestige of rate of return regulation which is no longer needed under price cap regulation.

3. Cash Working Capital Studies

This particular subsection (47 C.F.R. §65.820(d)) spells out in detail the procedures necessary to calculate the working capital element of the interstate rate base. The method required for Class A carriers to calculate this is the lead-lag study method as indicated in this subsection. SBC believes that alternate, less burdensome methods should be allowed for Class A carriers to complete the cash working capital requirements.

Generally speaking, the lead lag study is a massive study endeavor in measuring all major cash flow movements for each study area of a LEC. SBC's experience is that it takes approximately a year for 2 or more people to complete this exercise for an operating company. In the case of SBC, it is necessary to do a study for each of its 7 states based on the subsection (d) requirements. When done, a state's lead-lag study fills the greater part of a file cabinet with

[13] 47 CFR §65.101 et. seq.

supporting calculations and backup materials to support the calculations. Thus this particular rate base element support requires inordinate resources.

Equally important is the fact that working capital is normally the smallest element of the interstate rate base traditionally making up far less than 1% of the total rate base. Thus this item utilizing accounting terminology is an immaterial item which requires burdensome efforts in its completion. SBC estimates that simplification of this requirement, as recommended in Exhibit A, would save SBC approximately $350,000 annually.

This would allow each carrier:

a) the option of either continuing to request recovery of cash working capital or forgoing recovery,

b) choices in addition to the lead lag method that would support recovery of cash working capital, but which would be less burdensome, and

c) the option of freezing the amount of cash working capital consistent with the freeze of separations factors.

4. Detailed Recordkeeping is No Longer Required.

a. Continuing Property Records

Currently, Part 32 provides detailed instructions and procedures on the manner in which records for retirement units and property records must be maintained by the LECs[14] Such requirements are unnecessary and used only for external regulatory review. Carriers should have the flexibility to maintain records that conform to Generally Accepted Auditing Standards, to conform to the standards dictated by Statement of Financial Accounting Standards statements,

[14] 47 C.F.R. § 32.2000(e) & (f).

and to satisfy the audits conducted by independent auditors. All property record requirements should be eliminated and price cap carriers should be allowed to rely solely on the requirements of GAAP.

Two examples of requirements which are not needed are, one, that carriers should not be required to file for permission to establish and maintain their own list of retirement units.[15] LECs should be able to choose retirement methods consistent with more traditional GAAP methods. Second, LECs should have the flexibility to change the property record tracking system, without seeking permission, to a record system that more easily accommodates varied tracking requirements while maintaining the appropriate internal controls to satisfy the annual external financial statements audit.[16] The benefit of such a rule change is that the carriers would reduce the amount of time field personnel spend in maintaining and processing the current continuing property record (CPR) level detail, as well as savings realized by reducing the maintenance or system tables performed by headquarters personnel. Finally, reduced computer storage, programming maintenance and processing and reporting time would also add to the benefit. Exhibit B, attached further discusses these items.

Following GAAP recordkeeping requirements will not imperil the rate setting process since fundamental accounting safeguards are still in place. Furthermore, to the extent rate regulation exists, carriers have the burden of proving that any rate is just and reasonable. [17]

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[15] 47 C.F.R. § 32.2000(f).

[16] As part of normal financial audits, the public accounting firm must determine whether central office equipment, retirement unit, outside plant and support asset records are materially correct and consistent with the GAAP accounting requirements.

[17] 47 USC §201.

Thus, carriers have the burden of keeping appropriate records to prove not only that its rates meet Commission requirements, but also meet other financial reporting and legal requirements.

Additionally, SBC estimates that the simplification of recordkeeping methods combined with the establishment of expensing limits based on GAAP requirements as described in Exhibit B, page 4 will together generate in excess of $5 million annually in cost savings for SBC.

b. ARMIS Reports

In 1987, ARMIS was implemented to collect financial and operating data to facilitate the FCC's oversight functions and analysis and review of regulatory policy.[18] Since the inception of ARMIS, SBC has changed from rate of return regulation to price cap regulation. Many of the ARMIS requirements are cumbersome, time-consuming and no longer necessary.

Reports should be consolidated when possible to avoid duplication of information. The 43-01, 02 and 03 reports need to be streamlined and consolidated into l report to provide necessary information without creating extremely burdensome projects. Creating ARMIS, on an annual basis, requires in excess of 23,000 hours for SBC and each report should be looked at critically to reduce the regulatory burden. These reports have taken on a life of their own in growing over the years and in becoming far more complicated in nature and in detail. A radically fresh look needs to be taken in reviewing these reports to determine whether they are needed.

Significant portions of these reports could be eliminated or streamlined as a result of asking whether each Section is absolutely necessary and useful. Additionally, in regards to

[18] 47 C.F.R. § 43.21.

the 43-02, much of this information is contained in the telephone companies 10-K's and/or annual financial report. The remaining portions of 43-01, 43-02 and 43-03 reports should be consolidated into one report.

The service quality and infrastructure monitoring reports, i.e. the ARMIS 43-05, 43-06 and 43-07, have outlived their usefulness and should be eliminated. The FCC adopted these reporting requirements when it introduced price cap regulation out of a concern that some features of price cap regulation could create incentives to reduce service quality and investment in network infrastructure. These problems have not materialized since the advent of price cap regulation. In fact, the Commission has observed that there is not any evidence of a decline in service quality or network investment since the beginning of price cap regulation.[19] Also, the accelerating pace of competition, technological advances, growth and economics are all providing natural incentives to invest in the network and maintain high levels of service quality. These reports have completed their original mission of showing that price cap regulation did not result in diminished service quality or network investment. Therefore, instead of continuing to micro-manage through unnecessary reporting on service quality and infrastructure, these reports should be retired. For these, among other reasons, the Section 11 biennial review of the ARMIS 43-05, 43-06 and 43-07 reports should result in their elimination, or at a minimum, radical simplification.

A more detailed discussion of the action the Commission should take in conducting its biennial review of each of the ARMIS reports is attached as Exhibit C.

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[19] See, In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, 10 FCC Rcd 8961 ¶¶ 62, 365 (April 7, 1995).

5. Part 32 Accounting

Part 32 accounting rules[20] should be eliminated in the long term with a transition to complete reliance on GAAP. Until completely deregulated, however, some accounting requirements are necessary so that jurisdictional separations can occur. As we explained in our jurisdictional separations comments,[21] some vestige of separations must continue to ensure that the regulatory environments, state and federal, do not unconstitutionally burden regulated carriers. But, the chart of accounts in Part 32 should be streamlined to permit the use of Class B level of accounts in lieu of Class A.[22] In addition, all requirements for specific subaccounts and subsidiary record categories should also be eliminated.[23] This level of detail is not used for internal or external purposes, is costly to maintain and the costs outweigh any benefit to ratepayers. Attached as Exhibit B is our specific proposal.

6. Audits

The Commission staff complete numerous financial and operational audits annually in carrying out the various Commission mandates.[24] These audits can be extremely burdensome and require years to complete. Thousands of person-hours are needed from company personnel to handle and respond to these audits. As Commissioner Powell has

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[20] 47 C.F.R. Part 32.

[21] Jurisdictional Separation Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, ("Separations Reform Proceeding"), Comments of SBC Communications, Inc. filed December 10, 1997, pp. 2-3; Reply Comments of SBC filed January 26, 1998, pp. 3-4.

[22] 47 C.F.R. § 32.11 & 32.101 *et seq.*

[23] 47 C.F.R. Part 32 *passim.*

[24] 47 U.S.C. § 220(c).

suggested, limits should be imposed on regulatory efforts (such as audits) and used for enforcement measures only.

For example, since 1994, the Commission staff has been auditing SBC's telephone companies' hardwired central office property records. The FCC's auditing efforts, which are still in progress, began more than four years ago. In the most recent audit, 30 FCC auditors made field visits to Arkansas, California, Kansas, Missouri, Nevada, Oklahoma and Texas and visited over 60 central offices. Including these field visits and the numerous, detailed data requests made as a part of this audit, we estimate that so far this audit has demanded more than 30,000 person hours at an estimated cost to SBC of more than $5 million. Recently, the Accounting Safeguards Division made additional formal inquiries regarding SBC's telephone companies' central office investment in plug-in units (e.g., circuit boards, etc.) and we are concerned that a similar audit, equally as burdensome, may commence prior to the conclusion of the present audit that the FCC has undertaken.

Since the inception of price caps, the Commission audit staff has grown significantly in size, enabling it to do many more audits annually, and with greater scope and depth. SBC believes that this audit ramp-up trend is counter intuitive to the fact that Tier 1 carriers are moving increasingly toward a pure price cap regulation where cost and revenue requirement calculations bear little relationship to pricing.

Our competitors are not subject to these sort of audits. This double standard is neither appropriate nor sustainable in a competitive environment.

7. Telephone and Telegraph Franks

The provision of telephone and telegraph franks was originally conceived to provide free, or partially free, service for interstate or foreign telephone and telegraph servcie. The franks could be issued to full time officers, agents, and employees, and their families, to common carriers not subject to the Communications Act of 1934, as amended, at the discretion of carriers subject to the Act. Extensive data and reporting requirements are required on each person holding a telephone or telegraph frank. SBC does not know of any common carrier still using telephone and telegraph franks and therefore the rule should be eliminated.

B. Effective Competition Eliminates Need For Regulation

Many regulations are unnecessary. In almost every case, such rules are applied discriminatorily to the Bell Operating Companies, and not to their competitors. Such regulations have not kept up with changing times. And, as recognized by the FCC itself, times are changing rapidly in telecommunications.[25] Economists state that an imperfect competitive market is better than imperfect regulation. Areas which are ripe for relief are:

1. Enhanced Service Provider (ESP) Exemption from Access Charges

The ESP exemption from access charges was originally conceived as a mechanism to enable a fledging industry (information services) to enter the marketplace with a minimum of regulatory-imposed costs. The exemption has long outlived its usefulness. By the Commission's own assessment, competition in the information services market has long been

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[25] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report to Congress, FCC 98-67, released April 10, 1998 ("Report to Congress"), ¶2.

"truly competitive" and is today "already robust."[26] The ESP exemption has thus outlived both its marketplace and regulatory usefulness. While this issue is the subject of a current appeal,[27] this should not prevent the Commission from reexamining this important issue as part of its biennial review of regulations which are no longer necessary.

This is particularly so with regard to ESPs that are not access providers. Indeed the Commission has acknowledged that "there are some 3,000 Internet access providers in the United States."[28] According to one survey, there are now more than 4,000 such providers and 40 national Internet backbones operating in the United States.[29] According to data previously presented to and relied on by the FCC, Internet service provider market revenues are projected to quadruple from under $4 billion in 1996 to $18 billion in the year 2000.[30] As SBC has demonstrated, the vibrant nature of the Internet access provider industry is such that the historically pervasive regulation of BOC participation in the industry is unnecessary.[31]

Continuation of the ESP exemption is similarly unjustified. Such an implicit subsidy is not consistent with the deregulatory goals of the Act, nor the specific dictates of Section 254. This exemption is a good example of the type of regulation Section 11 was enacted to address. The benefits of such an exemption, while perhaps appropriate light-years ago in an

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[26] Computer III Further Remand Proceedings, FCC 98-8, Further Notice of Proposed Rulemaking, released January 30, 1998, paras. 1, 36.

[27] Southwestern Bell Telephone Co. v. FCC, No. 97-2618 (and consolidated cases) (8th Cir. filed June 16, 1997.)

[28] Id., para. 36 (further citations omitted).

[29] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report to Congress, FCC 98-67, released April 10, 1998 ("Report to Congress"), ¶65.

[30] Report to Congress, ¶65.

[31] CI-III Further Remand Proceedings, Comments of SBC Communications Inc., at pages 5-7.

information service sense, are not true today. The Internet is not a fledging industry. In fact, it is the fastest growing segment of telecommunications. Moreover, the costs to the incumbent LEC industry are enormous, and are not being recovered under the current rate structure.

2. Comparably Efficient Interconnection (CEI) Plans

The CEI process – involving the preparation, filing, review, analysis and approval of the Bell Operating Companies' CEI plans – requires great investments of time, personnel and money, both by the Bell Operating Companies and various organizations within the Commission. Even though very few objections to Bureau approval of these plans have been sustained over recent years, the CEI process has denied the Bell Operating Companies a speedy "time to market" (i.e., a "delay in the introduction of new information services"[32]) relative to the information service offerings of competitors that suffer no such regulatory constraints. These delays are consuming increasingly greater periods of time, as shown by the following representative (but not comprehensive) list of SBC Companies' CEI plan filings and approvals:

Voice Messaging - filed April 1, 1988 - approved September 29, 1988 (6 months)
Protocol Conversion - filed December 31, 1988 - approved March 9, 1989 (3 months)
Payment Processing - filed March 13, 1995 - approved October 31, 1995 (7 months)
Facsimile - filed August 3, 1995 - approved June 11, 1996 (10 months)
PC Backup/Recovery - filed August 3, 1995 - approved June 11, 1996 (10 months)
Security - filed April 4, 1996 - approved May 16, 1997 (13 months)
Internet Access - filed June 21, 1997 - not yet approved (already pending 10 months)

Competitors in a robust market generally are not and should not be treated disparately – whether with regard to cost, "time to market," or other considerations – by regulation. The "robust information services market should not require a different result."[33] Customers' purchasing

[32] CI-III Further Remand Proceedings, FNPRM, ¶63.

[33] Id., ¶1.

decisions should be based on the relative merits of all services and products that technology can make available to them "up to the moment." Customers expect no less, and the range of choice available to them should not be limited without compelling public interest reasons.

In the same vein, the Bell Operating Companies' competitors should not be permitted, under the guise of the CEI plan regime, to interpose objections to individual plans based on non-CEI-related considerations, such as the 1996 Act. Thus, to the extent that some in the industry have abused the process in this way, eliminating the process will remove competitors' ability to strategically stall BOC introduction of worthwhile services that meet all CEI-based concerns.[34]

3. Local Number Portability (LNP) for Commercial Mobile Radio System (CMRS) Providers

Currently CMRS providers must implement number portability in their networks by June 30, 1999. Such a requirement is unnecessary. Number portability, which the Act mandated for local exchange carriers, has been extended by the Commission to include CMRS providers. However, competition in the CMRS industry is being fostered today through

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[34] See, e.g., Southwestern Bell Telephone Company's Comparably Efficient Interconnection Plan for Security Service, CC Docket Nos. 85-229, 90-623, and 95-20, Order, DA 97-1029, released May 16, 1997, at ¶¶15-16 (noting that objections to Bureau approval of SWBT's plan were based on Section 275 of the Act); Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Providers of Internet Access Services, CCBPol 96-09, Order, DA 96-891, released June 6, 1996, at ¶47 (concluding that arguments regarding Sections 251 and 252 of the Act were beyond the scope of the CEI proceeding). Similarly, SWBT's Internet Access CEI Plan meets all pertinent CEI parameters and nonstructural safeguards, yet remains unapproved because of non-CEI-related objections. There are several avenues available to correct any perceived BOC shortcomings with respect to compliance with the 1996 Act, including, for example, commencement of complaint or enforcement proceedings. No parties' rights would be compromised were the Commission to eliminate the CEI plan process.

increased network coverage, new technologies such as PCS, and aggressive pricing of services.[35] In fact, competition in CMRS markets is increasing dramatically, prices are dropping, and the new entrants - PCS providers - are enjoying significant demand. Implementing number portability in the CMRS network is very complicated, and extremely costly, with benefits that are speculative at best. Additionally, the capital requirements of implementing CMRS number portability will impede network buildout and reduce price competition without a commensurate enhancement of competition. Requiring wireless number portability would diminish rather than increase CMRS competition.

CTIA recently filed a petition for forbearance on this issue. We strongly support Commission forbearance from requiring CMRS number portability.

4. Tariffing Services Subject To Competition

Companies which compete against one another should be on similar footing. However, that is not the case in many of the access markets. For example, data services and special access services are highly competitive. Unlike switched services, high capacity special access services are generally concentrated in revenue rich urban markets. There have been direct substitutes for special access services in the marketplace for years, putting special access markets at the forefront of local telecommunications competition. Because displacement of special access requires no interconnection with LEC services or LEC switches, IXCs and competitive

[35] "Bell Atlantic Takes 'Aggressive' Step in Cutting Cellular Rates 15%", Communications Daily, March 3, 1998.

access providers ("CAPs") are able to displace LEC facilities without the use of any LEC resources.[36]

A quick analysis of data for major markets supports the conclusion that direct substitutes for special access services exist and are being used by LEC customers. For example, a 1996-1997 study commissioned by SBC Communications Inc. ("SBC") demonstrated that in the Dallas market, Southwestern Bell Telephone had already lost approximately 43% of the high capacity special access market, while in Los Angeles, 49% of the market was lost to competitors.[37] Similar losses of 38% were shown in the Houston market during this time period, figures very similar to the market share losses experienced by AT&T in today's interexchange markets. Southwestern Bell Telephone, of course, is not unique in this regard. Similar market losses are occurring in most major markets, such as New York, Chicago, and Los Angeles.

The Commission has determined that competitive forces protected consumers and that tariff regulation was unnecessary to protect consumer interests.[38] The Commission concluded that market forces, administration of Section 208 complaint process and the Commission's ability to reimpose tariff regulation was sufficient to protect consumers.[39] Tariff regulation is no longer needed to protect consumers with respect to special access services, direct trunked transport, operator services, directory assistance and interexchange services. In fact,

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[36] See, SBC's Comments in response to the Second FNPRM in CC Docket No. 94-1, which demonstrate the extensive presence of alternate providers operating in Southwestern Bell Telephone's serving areas.

[37] Quality Strategies study, Pacific Bell HICAP TRACK, Third Quarter 1997; Southwestern Bell HICAP TRACK, Third Quarter 1996.

[38] Policy and Rules Concerning the Interstate Interexchange Marketplace, CC Docket No. 96-61 Order, ¶¶ 29, 36-37.

[39] Id. ¶ 36.

since customers for special access, direct trunked transport, operator service and directory assistance are generally sophisticated interexchange carriers and large businesses, the need for tariff regulation is even more minuscule. Further, since so called "nondominant" competitive providers offer these services under streamlined regulation utilizing almost exclusively contract pricing, the majority of carriers offering these services are virtually free from any regulation. In addition, since virtually all large business customers have a direct relationship with their selected interexchange carrier, demand elasticity is increased and the threshold to influence a customer to switch access carriers is quite small. Thus, tariff regulation for special access, direct trunked transport, directory assistance, operator services and interexchange services is unnecessary.

The Commission has found that the elimination of tariff regulation[40] would enhance competition among providers of such services, promote competitive market conditions, and achieve other objectives that are in the public interest, including the elimination of the possible invocation of the filed rate doctrine and establishing market conditions that more closely resemble an unregulated environment.[41] The elimination of tariff regulation for LEC special access service, direct trunked transport, directory assistance, operator services and interexchange services would benefit consumers.

5. Average Pricing Requirements

With few exceptions, Commission rules require price cap LECs to average prices. Yet the costs to do business vary widely between areas, particularly between urban and rural

[40] In Southwestern Bell Telephone's opinion, there is a clear distinction between pervasive tariff regulation and the permissive detariffing approach suggested in the Comments of SBC previously referenced herein.

[41] Policy and Rules Concerning the Interstate Interexchange Marketplace, CC Docket No. 96-61 Order, ¶¶ par. 52.

areas. Therefore, our competitors can target our low cost, high-volume customers (cream-skimming) since pricing for these customers is set artificially high. Of course this has the downstream effect of taking away the incumbent's best customers and leaving it with the high cost customers. But for these pricing rules, the price cap LECs could tailor packages to meet competitive challenges, while the public would be protected under normal antitrust pricing rules. Our competitors are not constrained by these artificial pricing rules. The intention of the Act was to deal with these implicit subsidies so that pricing could be based on economic costs. The Commission has not addressed this implicit subsidy issue in its universal service decision, and is not permitting us to tailor our tariffs to permit even the most conservative of positions (either contract based tariffs or tariffs to respond directly to a Request for Proposal (RFP).)[42]

6. Unbundled Access Obligations

The Commission should revise its rule 51.315 to reflect the finding of the Eighth Circuit that ILECs are not required to combine network elements for requesting carriers.[43]

7. International Issues

Competition internationally has changed rapidly in recent years. Bell Operating Companies are at a competitive disadvantage due to rules placed only on BOC applications.

[42] Southwestern Bell Telephone has filed two tariff filings attempting to respond to a competitive RFP. The Commission has repeatedly rejected these attempts.

[43] Of course, this Eighth Circuit opinion is currently on appeal to the Supreme Court. Iowa Utilities Bd. v. FCC, petition for cert. granted, Nos. 97-826, 97-829. 97-830, 97-831, 97-1075, 97-1087, 97-1099, and 97-1141 (U.S. Jan. 26, 1998). This should not preclude the Commission from addressing the issue as part of its biennial review obligation.

a. 214 applications

Although the Section 214 process has been streamlined for some applications, competitors are able to delay competitive entry by opposing applications for streamlined treatment. The FCC should adhere to a short time frame for consideration of non-streamlined applications, such as the 90 days adopted for action on non-streamlined foreign carrier applications. This would eliminate the incentive to oppose applications.

In addition, in the Special Temporary Authority granted to SBC by the FCC[44] for out of region facility-based service, the FCC imposed grooming restrictions. Such restrictions are not imposed on other non-Bell Operating Company carriers. Carriers groom (geographically allocate) inbound traffic to reduce costs, permitting lower prices for outbound international long distance. The Commission's grooming restriction unfairly disadvantages Bell Operating Company affiliates. Either all carriers should be subject to the restrictions; or all carriers should be freed from the constraint. There is no basis for treating carriers differently.

In addition, tariffs should no longer be required. Again, the competitive marketplace, with many providers of service, eliminates the need for regulatory control. International tariffs should not be treated differently than domestic tariffs. The current rules permit international tariffs to be filed on one day notice. The Commission could provide for public notice of operating agreements, including alternative settlement arrangements in order to facilitate the dissemination of information.

[44] STA granted February 26, 1998 for a period of 180 days.

b. Non-affiliated Carriers

The Commission should issue a blanket grant authorizing international Section 214 authority for routes to countries where carriers have no affiliate ("non-affiliated routes) or, in the alternative, should only require non-affiliated U.S. carriers to notify the agency a certain number of days prior to providing service over newly acquired international lines. The Section 214 process is a time and resource intensive FCC requirement that is no longer needed. Competition in the provision of international services will constrain non-affiliated carriers' ability to charge unreasonably discriminatory or anticompetitive rates. Thus, costs of this regulation could be removed from consumer rates, advancing the public interest. It may also stimulate market entry, promoting competitive market conditions and enhancing competition among providers of international telecommunications services.

8. Technical and Marketing Trials

The existing federal regulatory rules and procedures make it difficult to bring new capabilities to market. Increased competition in telecommunications markets and public interest makes streamlining of and/or forbearance from constraints on these trials a reasonable action to take. SBC proposes that all carriers be allowed to file a letter of notification with the Commission for small-scale experiments, market trials, or technical trials with customers.[45]

SBC proposes that the rules for trials should be changed so they no longer require: 1) tariffs to be publicly filed; 2) rate structures to be approved; 3) cost allocations to be justified; or 4) the carrier's confidential internal marketing and technical efforts be made part of the public

[45] The term technical trial is used to describe any test to determine whether and how multiple components of a system work together. This could include, but need not be limited to, a test of how new technologies and/or operational systems work together.

record. In addition, due to the unexpected circumstances surrounding new marketing and technical approaches, any federal guidelines on trials should be flexible and permit extensions beyond an initially planned end date.

Noted expert Irwin Dorros has observed in the past, "for market trials, a tariff needed to be justified in advance without the very information that trials would yield." Dorros further notes that a streamlined approval of trials would provide valuable information without compromising the regulatory process. "When full blown offerings are made, they would be better supported by technical and market data – and the public would receive more rapid offerings at lower development costs.[46]

C. Rules are Unfair and Discriminatory

Regulation should not be an impediment to competitive neutrality. The Act contains, at its core, the view that competitive neutrality must be achieved to promote a competitive market for telecommunications service. Many Commission regulations exist which not only do not promote that goal, but actively oppose it. For example, the pricing of access services is onerous for the price cap LECs, even for services for which competition is plentiful such as special access. Only minimal pricing flexibility (i.e. tone pricing for transport) by the LECs is permitted, while our competitors have unfettered freedom to price as the market demands. Indeed, being forced to average prices actively encourages competitors to take our best customers.

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[46] March 31, 1996, Letter from Irwin Dorros to W. F. Caton, acting Secretary, FCC, PP Docket No. 96-17.

In addition, the Commission's recent order on universal service, mandated by the Act, should be revisited as being not in compliance with the deregulatory goals of the Act. The upcoming cost proceedings should address recovery of the real, embedded costs of the network. Without that assurance, a competitive market will not be realized. The Commission should also review rules relating to paging carriers and nondiscrimination obligations.

1. Switched Access Structure

For switched access, a petition process at the FCC is currently necessary simply to design a rate element. We must file detailed cost support, which the Commission has ruled it does not have to keep confidential. The price cap basket structure itself does not mimic the market, hindering us from offering products and services at rates more economically rational. Perhaps most onerous of all, is the 6.5% productivity factor applied across all major baskets to reflect a "productivity" adjustment, above and beyond our competitors.[47]

Competitors are subject to none of these burdens. They price products and services as the market demands. They tailor offerings to particular customers. The price limitations they are subject to is that for which antitrust laws and unfair competitors laws were designed. They do not have artificial bands and baskets constraining their flexibility. They do not need to file tariffs; they do not need to go through a public regulatory process above and beyond the tariffing process simply to offer a new rate structure on a new or existing service. And they do not need to artificially reduce all of their prices by 6.5% per year, as the productivity factor in the price cap formula requires us to do.

[47] This matter is currently on appeal in the D.C. Circuit. USTA v. FCC, No. 97-1469 (and consolidated cases), (D.C. Cir. 1997.) This should not prevent the Commission from reexamining this important issue in the context of its biennial review.

2. Universal Service

The Commission instituted complex new universal service rules last year. One Commissioner has called them "unsustainable."[48] The Commission should eliminate the concept of "lowest corresponding price" ("LCP") as adopted and used in 47 C.F.R. Subpart F for the schools/library universal service support fund. The increasingly competitive telecommunications markets and the competitive nature of the "internal connections" and Internet access make the LCP wholly unnecessary given the bidding requirement for services and items that are eligible for discounts. Suppliers submitting bids will expect that others will likewise submit bids, and have every incentive to provide a low bid. The bidding requirement safeguard alone is sufficient to ensure that the funds available through the school/library fund will be used economically. Moreover, for telecommunications carriers, this requirement is inherently redundant with their common carrier obligation on the treatment of similarly situated customers. The Commission should thus get rid of the LCP concept as an unneeded, administratively burdensome requirement that is effectively being met by competition and other obligations.

3. Cost And Cost Recovery Definition

The Commission has repeatedly attempted to develop and adopt cost proxy models to determine the costs and or prices associated with our services. A contentious open proceeding is underway to estimate the costs of universal service. Unfortunately, the cost models developed to date do not model a network design which replicates the actual network in place.

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[48] Harold W. Furghtgott-Roth, Address to the National Conference of the United States Telephone Association, March 4, 1998.

Instead, they are based on hypothetical costs of a hypothetical network. Thus, the Commission can be sure that the model will not produce costs which are either accurate or reliable. As part of the Section 11 process, the Commission should ensure that costly rules are not enacted which seriously undermine the policies inherent in the Act.

4. Jurisdictional Separations

The SBC Companies, and local exchange carriers generally, are burdened by a separations process (Part 36) which results from the dual regulation to which we are subjected. As has been shown by a host of commenters in the Separations Reform proceeding, that process should be simplified, or more precisely, "frozen" thus eliminating the need for detailed separations studies.

Most members of the telecommunications industry agree that the current separations process is too cumbersome, time-consuming and expensive to administer, and thus is ripe for streamlining. However, as many industry participants have also pointed out in those proceedings, there would be little incremental benefit to attempt to reform a process that, while important to preserve for now, will eventually become unnecessary. Nor should any "reform" translate into cost shifts between the jurisdictions. Accordingly, the streamlining that is appropriate in connection with the separations process is simply to institute a "freeze" of the process as has been advocated by SBC, USTA, and many other parties in the Separations Reform Proceeding.[49] Otherwise, there is a distinct prospect that "reform" would result in "rate shock" to consumers, present concerns about confiscation of carriers' property, exacerbate universal service concerns, and drain even more resources and time from both carriers and the Commissions staff. Each of these concerns is significant enough; collectively, they cannot be tolerated under any circumstances.

5. Foreign Acquisition

Currently, the FCC requires that U.S. carriers seek FCC review before acquiring controlling interests in foreign carriers. This rule could prevent carriers from competing on an international scale. Investors must submit bids that are unconditional. A bid submitted stating that FCC approval is needed for such a purchase would likely be deemed "conditional" and rejected by that country without due consideration. And, if a carrier were to submit the bid, without notification that FCC approval were required, the ramifications are also not unconsequential. If a bid is made without notification that it was conditional upon FCC approval and FCC approval was not obtained, a bidder could be required to forfeit its bid bond or even face being sued for breach of contract, which could result in losing the entire bid amount. This rule does not promote foreign investment, which is ironic given the recently enacted World

[49] Separations Reform Proceeding, Comments of SBC Communications Inc., pp. 6-13; Reply Comments of SBC Communications Inc., pp. 6-11. Additionally, there would be modest savings created by the "freezing" of the Separation's process which would be experienced at the point in time when it would no longer be necessary to gather the significant amounts of data and process it under the existing Part 36 rules. SBC has estimated that its eventual annual savings from this simplification would be $450,000.

Trade Organization's Fourth Protocol To The General Agreement On Trade In Services concerning basic telecommunications. The U.S. fought long and hard for pro-foreign investment rules, which the FCC severely weakened in one action with this rule. Moreover, this rule only serves carriers which do not make foreign investments. It limits their competitors' ability of becoming a strong global player.

6. Reciprocal Compensation Related to One-Way Paging

The Commission's rules provide paging carriers with reciprocal compensation, even though there is nothing reciprocal about their traffic. All of it is originated on LEC networks. Applying the reciprocal compensation requirement to this one way traffic, together with applying the 51.703(b) requirement that a LEC may not charge any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network, means that LECs receive no compensation from paging carriers for traffic the LECs carry for them. Moreover, the Common Carrier Bureau's December 30, 1997[50] incorrect interpretation that "traffic" includes "facilities" has provided improper justification for paging providers' refusals to pay their bills even for facilities they purchased that are dedicated to their sole use. If left in place, the Bureau's interpretation will create inefficiency by forcing LECs to reconfigure their networks. To correct this situation, the Commission should remove one way paging from its reciprocal compensation requirements.

7. Product Development

In the context of the provision of marketing and sales services, pursuant to sections 272(g)(2) and (3), by a Bell Operating Company (BOC) to its affiliate that provides

[50] Letter to Mr. Keith Davis, et al. from Mr. A. Richard Metzger, Jr. dated December 30, 1997.

domestic, interstate, long-distance service, the FCC has excluded product development from the definition of marketing, creating a regulatorily imposed structure which does not stand up to logic or reason.[51] Under this Commission-imposed restriction, any service performed by the telco or use of telco information to benefit the long distance company, even if by a services affiliate, must be made available to unaffiliated entities on a nondiscriminatory basis. This requirement hinders the ability of the BOC to develop products, both interLATA and intraLATA, in a way to ensure that technology deployment and network planning are efficient and effective from a corporate perspective. Strategic development of products and services that have both an interLATA and an intraLATA component must be allowed jointly without a requirement to disclose proprietary information due to telephone company involvement in the process. In addition, today SBC telephone companies develop products and services for nonaffiliated IXCs under nondisclosure agreements and are not required to disclose such information to third parties due to the proprietary nature of those discussions.

Non-Bell Operating Companies are not subject to these rules. Those companies can ensure that their product development plans across all market segments are consistent and efficient. Bell Operating Companies, on the other hand, must share all information on a nondiscriminatory basis, hindering the development of local and long distance products. Product development has traditionally been considered a marketing function and Bell Operating Companies should be permitted to engage in this marketing activity on a nondiscriminatory

[51] Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, First Report & Order, ¶¶210, 217, 296.

basis, as permitted by section 272(g)(3) and as non-Bell Operating Companies are permitted to do.

8. Part 64 CAM Simplification

Like separations, the Part 64 Cost Allocation Manual ("CAM") requirements[52] are too complex and expensive given their diminished purpose under a system of price cap regulation. CAM is intended to protect ratepayers from subsidizing nonregulated activities, but price cap regulation performs this function by not permitting ILECs to raise rates to fund any cross-subsidy. CAM requirements can be simplified without any material reduction in the protection for ratepayers.

As a first step, the Commission should eliminate the recently adopted requirement to treat incidental interLATA activities as nonregulated. Second, the Commission should only require one annual CAM filing per ILEC, which would report all of the changes since the previous filing.[53] In addition, the Commission should simplify a number of the detailed CAM requirements. The detailed requirements that SBC has identified so far that could be simplified are listed on Exhibit D. For example, instead of requiring that network plant be allocated based on forecasts,[54] such allocation should be based on actual usage. Also, the frequency of the CAM audits should be reduced, such as every other year.[55] The frequency of other CAM tasks could also be reduced, such as by reducing the frequency of building floorspace studies and allowing the General Allocator to be based on an entire year's data instead of monthly cost data.

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[52] 47 C.F.R. § 64.901-904.

[53] 47 C.F.R. § 64.903(b).

[54] 47 C.F.R. § 64.901(b)(4).

[55] 47 C.F.R. § 64.904.

Some of the time-consuming minutia in the CAM could also be eliminated, such as the matrices in Sections II (Nonregulated Activities) and V (Affiliate Transactions). The affiliate transaction reporting in the CAM could also be simplified by not requiring the reporting of insignificant affiliates and transactions, such as those under a certain dollar threshold.[56] Similarly, the Commission should exempt from reporting nonregulated activities that have incurred only a *de minimis* amount of costs.[57] These and other changes to the CAM process would significantly reduce the burden on ILECs without losing less granular, but effective, control over cost allocation.[58]

9. CMRS

Rule 20.11 ("interconnection to facilities of local exchange carriers") was implicitly repealed by the 1996 Act which established new requirements for interconnection between telecommunications carriers. Those new requirements were affirmed by the Commission in the First Report and Order on Interconnection, which created the Rules in Part 51. Accordingly, the Commission should remove Rule 20.11.

In addition, process and procedure rules for wireless radio services are currently spread throughout numerous FCC parts that address wireless regulations.[59] The fact that the issues are not consistently grouped causes confusion among providers and inconsistency in

[56] 47 C.F.R. § 64.903(a)(3)&(4).

[57] 47 C.F.R. § 64.903(a)(1).

[58] The annual cost savings to SBC to incorporate some of these suggestions would be approximately $300,000.

[59] See for example Parts 22, 24, 26, 27, 90 and 101 of the Commission's Rules.

application. To further compound the problem many rules are duplicated in multiple sections. To ensure consistent application and understanding of the rules related to the provision of wireless services, the rules must be streamlined and/or eliminated as appropriate to remove duplication.

10. Affiliate Transaction Rules

Admittedly, the 1996 Act indicates that safeguards are applicable to certain activities. For example, Section 276 refers to the nonstructural safeguards required to implement the deregulation of payphone service. Similarly, Section 272 requires Bell Operating Companies to account for transactions with their 272 affiliates "in accordance with accounting principles designated or approved by the Commission." However, the 1996 Act does not prescribe what accounting principles to use, nor does it preclude forbearance. Certainly, the 1996 Act does not require multiple layers of protection when one is sufficient. The Commission should only retain and apply the affiliate rules to the extent strictly necessary to protect ratepayers. As stated above concerning the Part 64 CAM rules, a system of pure price cap regulation is sufficient in and of itself to protect ratepayers from cross-subdsidy because it does not permit ILECs to raise rates to fund any cross-subsidy. Therefore, like Part 64, the Commission should be able to simplify the affiliate transaction rules[60] with little, if any, reduction in the protection for ratepayers.

One example of multiple, redundant layers of protection is the Commission's decision to begin applying the affiliate transaction rules to an ILEC's performance of nonregulated activities on behalf of an affiliate, even when that ILEC is subject to pure price cap

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[60] 47 C.F.R. § 32.27.

regulation.[61] In the case of a nonregulated activity, such as inside wiring or computer bureau services, the Part 64 CAM process removes the fully distributed cost of the nonregulated activity from regulation. It is entirely unnecessary to overlay the affiliate transaction rules on top of the CAM processing of the costs of such activities. In effect, the Commission is requiring the ILECs to further break down the nonregulated costs into the amounts attributable to affiliates and non-affiliates as well as the amount attributable to each transaction with each affiliate. Specifically, the Commission should refrain from applying the affiliate transaction rules to the ILEC's performance for affiliates of those activities identified as nonregulated in Section II of the ILEC's CAM on file with the Commission.[62]

Another example of excessive protection is the requirement adopted in December 1996 to determine the fair market value of services performed between ILECs and their affiliates.[63] The requirement to value these service transactions at fully distributed cost is more than sufficient to protect ratepayers, especially in light of price cap regulation. Determining the fully distributed cost of these service transactions is a burdensome process by itself; the additional burden of determining the fair market value of each and every service transaction is not justified by the *de minimis*, if any, benefit that it might provide.

At a minimum, the Commission should eliminate these two onerous aspects of the affiliate transaction rules.

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[61] SBC Petition for Reconsideration, CC Docket No. 96-150, filed February 20, 1997, at 2-6; 47 C.F.R. § 32.27.

[62] 47 C.F.R. § 32.27(c).

[63] Accounting Safeguards Order, CC Docket No. 96-150, 11 FCC Rcd 17539 ¶¶144-148 (1996); 47 C.F.R.§32.27(c).

VI. CONCLUSION

The Commission should immediately begin to address the issues required by Section 11 of the Telecommunications Act, and begin its "basement to attic" review of all regulations applicable to telecommunications carriers. The items listed in this petition should be used by the Commission to facilitate this effort. We respectfully request that the Commission expedite its review so that it may be completed in the appropriate timeframe.

Respectfully submitted,

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CASH WORKING CAPITAL

Cash Working Capital. The average amount of investor supplied capital needed to provide funds for a carrier's day-to-day interstate operations. At the election of the carrier, a cash working capital allowance may be included in rate base. If a carrier elects an allowance for cash working capital, the allowance will be calculated using the carrier elected method set forth in paragraphs (e) and (f). Carriers, in lieu of the methods prescribed in paragraphs (e) and (f) of this section, may elect to freeze the amount of the cash working capital allowance included in the carrier's prior year filing. When any of the methods identified in paragraph (e) below is used to calculate cash working capital, the amount calculated may be increased by minimum bank balances and working cash advances to determine the cash working capital allowance.

e) Carriers electing a cash working capital allowance may select from the following methods of calculation:

(1) 45-day (1/8 year) formula method.
(2) Lead-lag study method.
(3) Balance sheet method.

f) In lieu of a full lead-lag study, carriers may calculate the cash working capital allowance using the following formula.

(1) Compute the weighted average revenue lag days as follows:
- (i) Multiply the average revenue lag days for interstate revenues billed in arrears by the percentage of interstate revenues billed in arrears.
- (ii) Multiply the average revenue lag days for interstate revenues billed in advance by the percentage of interstate revenues billed in advance. (Note: a revenue lead should be shown as a negative lag.)
- (iii) Add the results of paragraphs (f)(1) (i) and (ii) of this section to determine the weighted average revenue lag days.

(2) Compute the weighted average expense lag days as follows:
- (i) Multiply the average lag days for interstate expenses (i.e., cash operating expenses plus interest) paid in arrears by the percentage of interstate expenses paid in arrears.
- (ii) Multiply the average lag days for interstate expenses paid in advance by the percentage of interstate expenses paid in advance. (Note: an expense lead should be shown as a negative lag.)
- (iii) Add the results of paragraphs (f)(2) (i) and (ii) of this section to determine the weighted average expense lag days.

(3) Compute the weighted net lag days by deducting the weighted average expense lag days from the weighted average revenue lag days.

(4) Compute the percentage of a year represented by the weighted net lag days by dividing the days computed in paragraph (f)(3) of this section by 365 days.

(5) Compute the cash working capital allowance by multiplying the interstate cash operating expenses (i.e., operating expenses minus depreciation and amortization) plus interest by the percentage computed in paragraph (f)(4) of this section.

May 6, 1998

PART 32 SIMPLIFICATION ISSUE

RECORDKEEPING REQUIREMENTS

- Eliminate detailed instructions and procedures for maintaining retirement units and property records.
- Eliminate requirement to file retirement units list.
- Recognize gain or loss on disposition of plant immediately which is more in line with traditional GAAP treatment of fixed asset retirements.

PROPOSED ALTERNATIVE AND ANALYSIS

Relaxing the recordkeeping detail in Part 32.2000 would significantly reduce costs by decreasing (1) the amount of time administering the current level of detail and (2) the computer storage and systems maintenance.

This will make Carrier financial statements more consistent with financial statements and calculated financial indicators of the unregulated industry at large. There should be a goal for LECs to employ GAAP techniques as employed by industry at large to enhance financial comparisons between regulated carriers and the remaining portions of outside industry.

Under price caps, amounts carried in the rate base no longer bear a direct relationship with rates charged to customers. As such, there should no longer be such an extensive need to provide reams of cost data to support the rate setting process for price cap carriers.

Carriers should be allowed to maintain records in conformance with GAAP and establish internal controls that satisfy standards set by SAS auditing statements. GAAP does require certain accounting records to be created which support the existence of a company's fixed assets. This record keeping in most instances is significantly less than that called for by the Part 32.2000 rules for plant but nevertheless still demonstrates and supports the materially correct balances of the fixed assets.

USOA STRUCTURE

- The long term goal concerning the accounts structure should be to eliminate the text which specifies the detailed accounting instructions in the Part 32 rules. This would significantly streamline and simplify the Part 32 rules.
  Carriers should be afforded the long term goal of utilizing Generally Accepted Accounting Principles as the guide for accounting methods, principles, and dictates in providing the financial information for a price cap carrier.

As explained above, there are good reasons for promulgating the use of GAAP within the LEC industry and price cap carriers in particular.

- In the interim as a transitional step toward GAAP, SBC believes that it as well as other Tier 1 price cap carriers should be provided the flexibility to employ the Class B accounting rules in satisfying the financial accounting needs called for in the Code of Federal Regulations i.e. Part 32,36, and 64. These rules are currently employed by Tier 2 LECs.

Class B accounting satisfies all requirements in reporting Part 36 and 64 information as is obvious by the fact that Tier 2 carriers do employ this aggregated account structure. To the extent it continues to be necessary, jurisdictional rate of return calculations can be developed to produce the interstate rate of return (492 report) as well as state rates of return when needed.

Class B accounting significantly reduces many burdensome reporting activities since there are 105 accounts in lieu of the 233 accounts in Class A. This significantly eases the reporting process of the major ARMIS financial reports (43-01,43-02, 43-03, and 43-04).

This also allows the carrier to make significant reductions in various administrative, financial, and operational processes and systems due to the lesser amount of account data needed. For instance, time reporting can be simplified in the field or perhaps modified to capture data that is more conducive to effectively completing field

operations in lieu of capturing data from an account structure that has not changed meaningfully in at least a decade. In the case of a price cap carrier setting rates based upon Price Cap Indices,
it is no longer relevant to separately identify and report items such as 6722-external affairs, 6531-power expense, 6424-Submarine Cable Expense, 6431-aerial wire expense etc.

• Eliminate all requirements for specific subaccounts and subsidiary records.	Subsidiary level detail is not useful for internal or external purposes and is costly to maintain. For example, it is no longer necessary to separately identify items such as 2215.1- Step by step, 2215.2- Cross Bar, and 2215.3- Other Electromechanical switching.
• Permit carriers to establish expense limit based on GAAP.	Price cap carriers should be allowed to utilize the same judgment and discretion as the general business community in setting the limits (or threshold) at which purchases are determined to be an expense and not an asset. After a lengthy proceeding, the FCC ordered an increase in this expense limit to $2000 for support assets which are a minor part of the overall asset base. The $2000 limit might be considered a reasonable industry benchmark to use for the asset base and an appropriate one but it took far too long for this new expense limit to be approved by the FCC. The industry worked with the FCC on this initiative from 1992 through 1997. Typically, in the general business community, this is a decision that can be made in a matter of weeks after consultation with an outside accounting firm. Moreover, there is no benchmark for expensing network items which continue to be individually tracked. This requires a large investment in time to administer inventory techniques and system resources to continue to identify items which do not have a significant value.
• Permit carriers to establish materiality standards based on GAAP.	Part 32.26 effectively prescribes that materiality based upon GAAP standards should have no bearing in following the Part 32 system of accounts.

GAAP and SEC regulations generally combine to permit a limited zone of materiality within which exact treatment or conformance of a particular accounting transaction or group of accounting transactions according to a particular GAAP principle or to past accounting policy is not challenged. This permits companies to avoid wasting inordinate amounts of time revising or changing very small accounting transactions which have no meaningful bearing on the overall financial picture or results. Part 32 should embody this concept.

DEPRECIATION ACCOUNTING

- Permit carriers to set their own depreciation and amortization rates and processes.

Telecommunications Act of 1996 permits forbearance from FCC depreciation rate setting mechanisms.

Carriers should be permitted to set depreciation rates based on economic analysis consistent with GAAP i.e. simple estimates of the life of plant investment.

The current represcription process is micromanaged using a morass of historic retirement information and outdated principles. Useful and usable information is available from outside consultants which can be easily transcribed into the development of depreciation rates. SBC supports techniques such as this to geometrically streamline the rate represciption process.

Depreciation changes are endogenous under current Price Cap rules. As such, price cap carriers do not alter price cap rates to recognize changes in the estimated lives of plant.

NOTIFICATION REQUIREMENTS

- Permit carriers to implement changes in

Allow carriers to follow accounting conventions used by the interexchange carriers and other outside industries. Afford carriers the opportunity to use the same GAAP

accounting standards without obtaining FCC approval.	accounting concepts as the business community at large. Customers of price cap carriers are protected from rate setting anomalies since rates do not bear a direct relationship with costs under price caps.
• Permit carriers to recognize extraordinary items, prior period adjustments, contingencies in conformance with GAAP without first filing for FCC approval.	This activity detailed in Part 32.25 is of little or no use to anyone, especially as related to price cap carriers. Material events are disclosed in the 10-K and the financial reports.
• Remove ceilings for error correction levels.	

ARMIS Proposals

Review of the 43-01 Report

Modify the 43-01 report to provide useful information for those items that serve a very real need without creating a burden in preparation.

1. In Table I, revise the line classifications to coincide with the Class B USOA account structure. This would include all major income statement categories, plant, and balance sheet. Currently, the reported line classifications appear in a rather patchwork manner. Sometimes Class B accounts are used and other times assorted related items are additionally reported. SBC contends that Class B accounts would exclusively suffice for reporting and miscellaneous items such as IRS income adjustment and equal access investment add unnecessary detail. Furthermore, SBC believes that only those income statement, plant, reserve and miscellaneous accounts necessary to calculate the rate of return should be included. As such, it would appear to be unnecessary to include the non-operating items (lines 1320 through 1390).

2. SBC believes that a) SNFA and other adjustments columns could be combined, b) that only the summed total of the common line columns is needed, and c) that equal access no longer meets separate recognition.

3. In Table II, eliminate the distinction in reporting premium and non-premium minutes since non-premium minutes are no longer statistically meaningful.

4. Table III does not appear to be necessary since it is merely a recap of previously reported information. SBC believes that redundant presentation of data must be eliminated.

5. ARMIS 43-01, as an annual report, lines 1910 through 1935 should be eliminated entirely.

Review of the 43-02

SBC believes that a number of schedules should be eliminated from the 43-02. SBC believes that these actions can be taken because certain schedules represent burdensome and unnecessary detail or because similar information can be found in the annual financial report of the annual SEC 10-K filing. SBC believes that if any information called for in the 43-02 can be provided through attachment of the annual report/10-K; that the 43-02 data requested can be referred to those reports. The following comments delineate these thoughts.

1. The C-3 and C-4, Stockholders Table, can be eliminated or referred to other reports since this information is generally available in the 10-K and the annual financial reports which can be attached as a part of the 43-02.

2. SBC believes that Table B-1, "Balance Sheet Accounts," can be eliminated since most of this information would be contained in the 43-01, the 10-K, and the annual report.

3. Table B-2, "Statement of Cash Flows," can be eliminated since funds statements are provided in the 10-K and the annual report.

4. SBC questions the need for Table B-3, "Investments in Affiliates and Other Companies," because the affiliate transactions are described in the CAM; Table B-4, "Analysis of Assets Purchased From or Sold to Affiliates," because the transactions are audited each year by a public accounting firm as part of the CAM audit; and found in I-2, "Analysis of Services Purchased From or Sold to Affiliates."

5. SBC questions the need for B-9, "Deferred Charges," and B-10, "Accounts Payable to Affiliates," as detailed information that is not necessarily useful to the reader of the report.

6. Table B-11, "Long Term Obligations," can be eliminated since that information can be found in the annual financial report and the 10-K.

7. SBC believes that Table B-12, "Net Deferred Income Taxes," is unnecessary detail of little value and furthermore difficult to understand. Additionally, it is summarized in the 10-K and the Annual Financial report.

8. SBC also believes that Table B-13, "Other Deferred Credits," is of little value containing only trivial information which again provides information not easily understood. Table B-14, "Capital Stock," and B-I5, "Capital Stock and Funded Debt Reacquired," is reported in the 10-K.

9. Table I-1, "Income Statement Accounts," would be available in the 43-01 (earlier proposal) on a Class B account basis.

10. Table I-3, "Pension Cost," is available in summarized form in the 10-K.

11. SBC believes that Tables I-4, "Operating Other Taxes," I-5, "Prepaid Taxes and Tax Accruals," and I-6, "Special Charges," constitute unnecessary detail that can be eliminated. SBC questions the usefulness of this detail for the reader of the report.

The schedules remaining in the 43-02 can be attached to the 43-01 consolidating the 1, 2, and 3 reports together as one usable report which is significantly less burdensome to prepare. As a part of that report, the carrier's 10-K and annual financial report would be attached.

Review of the 43-03

SBC believes that the entire 43-03 report should be eliminated. Consider that the above proposes that the 43-01 should be in a Class B account format and that the 43-01 already includes columns for "total per the books," and a "non-regulated" column and jurisdictionally separated columns. SBC contends that these columns reflected in the 43-01 provide in a summarized fashion all of the meaningful information currently found in the 43-03. Since this information is already in the 43-01, then in SBC's opinion, the need for the 43-03 report no longer exists.

The opinion letter from the public accounting firm that normally accompanies the 43-03 can then be attached to the 43-01.

Review of the 43-04

The current requirements of the 43-04 mandate the provision of an incredible amount of detail concerning usage and cost information employed in the Part 36 jurisdictional separations processes and the Part 69 allocation process. SBC questions the need to prepare this entire painstaking report which includes reams of data classified by Part 69 category. SBC questions the usefulness of this information to the reader in general and in particular to the reader of reports concerned with price cap companies.

Review of the 43-05, 43-06 and 43-07

The FCC Reports ARMIS 43-05, 43-06, and 43-07 regarding service quality reporting and infrastructure monitoring, have outlived their usefulness and should be eliminated. The FCC adopted these reporting requirements when it introduced price cap regulation out of a concern that some features of price cap regulation could create incentives to reduce service quality and investment in network infrastructure. These problems have not materialized since the advent of Price cap regulation. In fact, in 1995, in the price cap proceeding, the FCC noted that there was not any evidence of a decline in service quality or network investment since the beginning of price cap regulation. In reliance on this lack of change in service quality, the FCC refused to make any changes to its price cap calculations based on service quality. See *In the Matter of Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, 10 FCC Rcd 8961 ¶¶62, 365 (April 7, 1995); *In the Matter of Price Cap Performance Review for Local Exchange Carriers; Access Charge Reform*, CC Docket No. 94-1 & 96-262, 12 FCC Rcd 16642 &184 (May 21, 1997). As a result, the price cap LECs should thus be relieved of these reporting requirements.

Review of the 495A&B

Consistent with SBC's proposal herein to eliminate the Part 64 network forecasting requirement, the Commission should eliminate the ARMIS Reports 495A, "Forecast of Investment Usage," and 495B, "Actual Usage of Investment." These reports are prepared and filed annually to report usage of common network investment (outside plant "OSP" and central office equipment "COE") and to forecast usage (regulated and non-regulated) for the next three years. Since the first reports were filed in 1988, SBC has received no questions or comments.

The Commission should also eliminate the waiver filing (included in the 495A and 495B process) required to reallocate COE and OSP common equipment to other services, when a non-regulated service is eliminated and the equipment is redeployed for use by other services.

May 6, 1998

PART 64 SIMPLIFICATION ISSUE	**PROPOSED ALTERNATIVE AND ANALYSIS**
1. **General Allocator** Streamline and simplify the calculation for the general allocator which is applied against those costs which can not be associated with a relevant direct or indirect allocation factor.	General allocator (Reference 64.901(b)(3)(iii); CC Docket 86-111, Order on Reconsideration, released 10/16/87, para. 2, 71-83) Allow the calculation of the general allocator to be based on operating expenses calculated on an annual basis. Part 64/Docket 86-111 Order require that the allocator be computed by developing a specific ratio employing expenses directly assigned or attributed to regulated versus nonregulated activities. Additionally, the general allocator calculation is based on a three month average which in the aggregate is a very detailed calculation which relies on tracking specific monthly balances. Since all FCC ARMIS reporting is now required only on an annual basis, SBC suggests that the general allocator additionally should be calculated on the entire year's operating expenses previously assigned to the nonregulated jurisdiction versus those previously assigned to the regulated jurisdiction. Refer also to suggestion 10 which proposes to eliminate the distinction between directly attributed and indirectly attributed costs.
2. **Marketing Allocator** Eliminate the requirement to calculate a marketing allocator which is applied against the marketing and sales expense accounts in	The marketing allocator (CC Docket 86-111, Report and Order, released 2/6/87, para. 203) is developed specifically to allocate the expenses for accounts 6611, 6612, 6613, and a portion of 6623 and 6722. These accounts deal with various marketing, sales, and customer service activities. The allocator is based on the ratio of regulated versus nonregulated costs previously (directly or indirectly) assigned within these accounts. SBC believes this calculation is far too detailed and no longer necessary given the availability of the general allocator to use in lieu of the marketing allocator. This degree of accuracy and additional preciseness of the marketing

allocating costs to the nonregulated jurisdiction.	allocator is not warranted for price cap carriers which no longer set interstate rates directly based on cost of service calculations.
3. Allocation of Common Network Investment based upon forecasting future usage should be discontinued.	Central office and outside plant investment forecasting (Ref. 64.901(b)(4)) – Forecasting the amount of nonregulated product usage of network investment 3 years in advance is difficult, sometimes highly inaccurate and should be discontinued. This forecast determines the amount of costs associated with that network plant investment or expense to be assigned to the nonregulated jurisdiction. Technology changes quickly and it is difficult to forecast use of these nonregulated products 3 years in advance, especially for new products. SBC contends that actual usage or attributed use calculations as used for all other types of Part 64 allocations should be utilized in this case also.
4. Permit carriers to file CAMs based on the Class B set of accounts.	Part 64 Account Level Reporting (Ref. 64.903(a)(5) - File and operate CAM at a Class B level. This will still allow for an adequate amount of reporting detail for the benefit of the ARMIS 43-03 report and still provide some relief from the burdensome task of reporting the significant amount of detail associated with each account in the ARMIS 43-03 report. The cost allocation work for any given carrier is performed on a cost pool basis which generally is not a Class A account.
5. CAM filing requirements should be simplified.	CAM filing requirements (Ref. 64.903(b)): • SBC suggests requiring CAM filings only on an annual basis. This would eliminate the requirement to update

Sections VI and VII at least 15 days before the carrier plans to implement nonregulated product modifications. It is SBC's experience that filed changes to the CAM in any given year do not have a material impact on the overall allocation of costs to the nonregulated jurisdiction. Multiple CAM filings necessitated by often minor changes in nonregulated product offerings or the processes associated with these products causes continuing burdensome activities in making multiple CAM filings each year. For price cap carriers in particular, these multiple updates of their CAMs are all but meaningless since interstate rates are no longer directly based on cost of service calculations.

- Additionally, SBC proposes to eliminate the quantification requirements for CAM changes for Tier 1 carriers for changes up to $1 million dollars in nonregulated revenue requirement. Calculating individually each minor cost allocation change is very time consuming. SBC therefore suggests that the benchmark for reporting these quantifications should be set at $1 million which would therefore provide this information for those changes deemed to be significant.

6. Independent audits- adjustments for errors found in the CAM audit. Modify the error benchmark.	Independent audits (Ref. 64.904(a) and RAO 12) error adjustments. SBC suggests the elimination of the $1 million error threshold above which errors are required to be adjusted and corrected. As an alternative, employ the auditor's materiality level normally employed for GAAP audits which would be targeted more closely with the materiality of the nonregulated operations for that particular carrier. A $1 million error for a Tier 1 carrier constitutes a very small percentage of the overall nonregulated revenues or costs. In Southwestern Bell Telephone Company's case, a $1 million adjustment would represent less than 0.2% of the nonregulated revenues. SBC believes that this is an arbitrarily small benchmark for a Tier 1 carrier which can cause and does cause burdensome restatements of the financial statements.
7. Conduct the Part 64 audit biennially and audit both audit years	Conduct the Part 64 audit biennially and audit both audit years concurrently. This will save in the significant administrative exercise of gathering audit support for the FCC audit staff on an annual basis. It is much more efficient to conduct a two-year audit at one time than it is to conduct two separate one-year audits. The staff has

concurrently.	conducted two-year audits like this in the past and in SBC's experience they have been more effectively managed in this manner.
8. Eliminate the Account matrix in Section II.	SBC submits that this multi-page chart is of no benefit to the reader and it is time-consuming to update and maintain in the CAM. This requirement should be eliminated.
9. Streamline and reduce other burdensome reporting in other parts of the CAM reporting requirements.	Modify sections IV and V of the CAM to identify and report only material affiliate transactions for Tier 1 carriers: • In section IV, the affiliate chart, SBC proposes to require delineation of only affiliates that have in excess of $10 million in assets. This will eliminate the reporting of affiliates which are not meaningful in size and would not have a significant impact in any regard to the Telco operations. In Southwestern Bell Telephone Company's (SWBT)CAM there are 12 or more pages of detailed charts of the affiliates; many of which are very small in magnitude. • In section V, list only those services where the annual payments exceed $100,000. SWBT's CAM currently contains 121 pages of detailed descriptions of affiliate transactions. A significant portion of these transactions represent minor cash flows between the various affiliates which could have no meaningful or material impact on telephone company operations. SBC proposes to eliminate all text from these charts for transactions less than $100,000 is scope. • Eliminate the required affiliate transaction matrix in section V. This matrix illustrates the cash flows between affiliates which are already explained in great detail in the service descriptions referred to above. In addition, an index at the front of Section V serves to guide the reader to through the transactions. Thus, this chart is redundant and should be removed.
10. Simplify the reporting burden of "directly" attributed and "indirectly" attributed costs.	The CC Docket 86-111 Report and Order previously referred to above established a dichotomy for cost allocation broken down into 2 separate methods of attributing costs not directly assigned, i.e. direct and indirect attribution. Additionally, the reporting requirements for the ARMIS 43-03 report require separate presentation of amounts associated with each of these allocation methods. In reality, there is very little distinction between these 2 techniques and the difference in practice in performing the direct versus the indirect detailed algorithms in a carrier's cost allocation system becomes very difficult to discern in substance. SBC proposes that these terms

should be eliminated and that future reference to the allocation techniques and the reporting of them should simply be labeled as one category, attributed. This will aid in simplifying both CAM processing since these two separate groups would no longer need to be separately tracked and it would simplify ARMIS reporting since these categories would no longer have to be individually reported in the 43-03 report.

11. Eliminate the nonregulated reporting of incidental interlata services.	The Accounting Safeguards Order, CC Docket 96-150 dated December 24, 1996, required that incidental interlata services should be treated as nonregulated for federal accounting purposes. To date, this effectively causes SBC to report certain signalling services as nonregulated which are difficult to track and very time consuming in regards to finding and executing appropriate usage based allocators against the costs of these services. SBC believes that this requirement is unnecessary and burdensome. The Order relied upon the Telecommunications Act, Section 271(h) language which merely mandates that certain interlata incidental services will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market. These services are tariffed Title II services and, as such, could not affect exchange service through any type of cross subsidy. Additionally, to the extent that there is little or no relationship between cost of service in both the interstate jurisdiction as well as the state jurisdiction, then this is a moot point. SBC suggests that since little if anything is gained by treating these as nonregulated, any benefit of this requirement is far outweighed by the extreme burden imposed by the tedious process of collecting detailed usage data on a monthly basis and processing this through the Part 64 allocation process.
12. Eliminate the FCC staff approval process for sampled time reporting systems.	As an outgrowth of its CAM audit responsibilities, the FCC staff has required an elaborate review process before a carrier may implement any new sampling time reporting systems. As such, SWBT has been working on a new time reporting system that uses efficient sampling techniques since 1993, but to date SWBT has not been able to satisfy the FCC staff's elaborate review process in order to proceed with implementation. SWBT has spent tens of thousands of hours trying to satisfy various needs of the Staff in demonstrating the validity of the system. SBC proposes that review and acceptance of such a system should be a routine function of the outside auditor that performs the CAM audit and that an elaborate acceptance process with the FCC staff is unnecessarily bureaucratic and chilling to efforts in trying to promote internal efficiency and process improvement essential to greater productivity.
13. Eliminate some unnecessary CAM filings by allowing	Recently, Staff has provided direction in wanting cost pools removed if they weren't going to be used in the near future. This has caused carriers to make CAM changes to remove these cost pools and at a later date more changes to reintroduce the use of these pools when the need arose. For example, some pools may only be used periodically.

unused cost pools to remain in the CAM if it appears that there will be a future need.	SBC proposes to let these pools remain in the CAM if there is deemed to be a future need for them. This will reduce some of the burden of performing activities which have no impact on the CAM results in any way.
14. Reduce the frequency of floorspace studies so that they only need to be completed every 3 years.	The 1993 CAM Uniformity Order requires building floorspace studies to be completed on an annual basis for purposes of allocating building costs. This is a very time-consuming study which requires hundreds of hours annually to prepare for a Tier 1 carrier. Moreover, the use of building space does not significantly change from one year to the next and the change in allocation created by a given building study will not materially change the allocation of costs to the nonregulated jurisdiction. Thus, SBC submits that it is not a prudent cost/benefit procedure to complete this on an annual basis and that it more meaningful to complete this on a three-year cycle as is the practice for many of the Part 36 studies performed in the past.
15. Eliminate the need to complete cost allocation of nonregulated services that are *de minimis* in size.	SBC proposes to eliminate cost allocation tracking and reporting for nonregulated services which have revenues of less than 1% of the total nonregulated revenue total for a carrier. This will eliminate the detailed data gathering and cost allocation calculations for those services that will not have more than a de minimis impact on the nonregulated results.

0182009.01

CERTIFICATE OF SERVICE

I, Evelyn De Jesus, hereby certify that on this 8th day of May, 1998 a true and correct copy of the foregoing "PETITION FOR SECTION 11 BIENNIAL REVIEW", was sent by United States first class mail, postage prepaid, to the parties on the attached list.

By: Evelyn De Jesus

Evelyn De Jesus

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